

Honorable Steve B. Chu  
United States Magistrate Judge  
Civil Chambers Rules

*Last Updated July 31, 2023*

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*Pro se* litigants and counsel are expected to comply with this Court’s Civil Chambers Rules as set forth below. The Civil Chambers Rules intend to serve as guidance throughout magistrate-specific proceedings before this Court. Concurrently, the Court may vary these Rules by separate order in any case as appropriate. Please note the Civil Chambers Rules do not supplant to any extent the Federal Rules of Civil Procedure, the Civil Local Rules for the Southern District of California<sup>1</sup> (“Local Rules”), or the Electronic Case Filing Administrative Policies and Procedures Manual<sup>2</sup> (“ECF Manual”).

## **I. Civility**

The Court expects all parties and counsel to conduct themselves with civility and respect. This expectation extends to all oral, written, virtual, and in-person interactions with party opponents, opposing counsel, and the Court, including its staff. At all times, *pro se* litigants and counsel are expected to comply with Civil Local Rule 2.1 on Professionalism, including during proceedings that occur outside the Court’s presence. The Court will not tolerate disrespect from parties or counsel.

## **II. Communications with Chambers Staff**

Chambers staff consists of two law clerks and one courtroom deputy (“CRD”). Law clerks handle civil matters exclusively. The CRD handles criminal matters exclusively. The law clerks and the CRD may be reached via email at [efile\\_chu@casd.uscourts.gov](mailto:efile_chu@casd.uscourts.gov). To contact the law clerks by phone, please call 619. 557. 5391. To contact the CRD by phone, please call 619. 557. 5973.

- a. Scope of Communications:** Telephone calls to Chambers in civil cases may be initiated to solely address administrative matters. Emails to Chambers in civil cases are appropriate to either (1) lodge documents and/or information as directed by the Court or (2) raise discovery disputes

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<sup>1</sup> For the Local Rules, see <https://www.casd.uscourts.gov/rules/local-rules.aspx>.

<sup>2</sup> For the ECF Manual, see <https://www.casd.uscourts.gov/cmecf.aspx#undefined2>.

pursuant to Section VI of these Civil Chambers Rules. Law clerks are not permitted to discuss the merits of a case, provide legal advice, or indicate how or when the Court may resolve pending motions or other substantive matters.

- b. Telephone Calls:** No *pro se* litigant or attorney shall contact Chambers prior to reviewing the Local Rules, this Court's Civil Chambers Rules, and relevant orders of this Court. **For represented parties, only the attorney-in-charge may call Chambers.** Further, all calls placed to Chambers shall be jointly made, except as specified under Section VIII of these Rules pertinent to *ex parte* proceedings. When leaving a voicemail for Chambers, please state the (1) case name and number; (2) all callers' names and telephone numbers; and (3) a brief description of the nature of the inquiry.
- c. Letters, Faxes, or E-mails:** None of these items shall be submitted unless specifically requested by this Court. Consistent with this Civil Chambers Rule, Chambers should not be included on correspondences exchanged amongst counsel or between *pro se* litigants and counsel.
- d. Lodging Documents and Courtesy Copies:** "Lodging" documents or information means emailing such items to [efile\\_chu@casd.uscourts.gov](mailto:efile_chu@casd.uscourts.gov) or delivering courtesy copies of documents to this Court's Chambers, which are located at the Schwartz Courthouse, 221 W. Broadway, Suite 5195, San Diego, CA 92101. Documents shall be lodged via email exclusively where the total pages lodged, inclusive of exhibits, do not exceed fifty (50) pages. Where the documents to be lodged exceed fifty (50) pages, inclusive of exhibits, courtesy copies must be delivered to Chambers consistent with the applicable deadline and during the Court's hours of operation.
- e. Transcript Requests:** Requests for transcripts in civil proceedings must be placed online. For more information, please visit the following website: <https://www.casd.uscourts.gov/attorney/transcript-order.aspx>.

### **III. Settlement Conferences: Early Neutral Evaluation Conferences ("ENE") and Mandatory Settlement Conferences ("MSC")**

#### **a. Settlement Statements**

All parties to an ENE or an MSC must lodge via email non-confidential settlement statements of seven (7) pages or fewer, excluding exhibits, setting forth the

following: (1) the nature of the case, inclusive of the claims at issue, defenses asserted, a summary of the undisputed facts, and a brief recital of key facts in dispute; and (2) the parties' respective settlement positions, inclusive of the most recent demand and counteroffer exchanged and all obstacles the parties anticipate may impede settlement. If so desired, parties may include in their email to Chambers a confidential version of their settlement statements for the Court's consideration.

In addition to lodging their respective settlement statements, all ENE and MSC participants must exchange copies of their non-confidential settlement statements with all other parties to the settlement conference. The exchange of settlement statements must occur consistent with the deadline reflected in the Court's order setting the ENE or MSC. To that end, the Court expects all parties to an ENE or MSC to fully review and comply with all provisions of the Court's order setting the ENE or MSC.

#### **b. Time Allotment**

The Court reserves two (2) hours for settlement conferences. Unless otherwise indicated by court order, morning settlement conferences will be held between 9:30 a.m. and 11:30 a.m. and afternoon settlement conferences will be held between 1:30 p.m. and 3:30 p.m. All participants, including parties, party representatives, insurance adjusters for insured parties, and counsel, must be available to participate in the settlement conference for the entirety of such allotted time.

#### **c. Settlement Authority Required**

Pursuant to Civil Local Rule 16.3(b), all parties and party representatives other than counsel must have complete authority to negotiate and enter into a binding settlement agreement at the time of the ENE or MSC. This requirement renders unnecessary intervention from a superior who is not otherwise a participant to the settlement conference and thus ensures efficiency in the parties' negotiations.

Counsel for a government entity may be excused from this requirement so long as the government attorney who attends the settlement conferences (1) has primary responsibility for handling the case; and (2) may negotiate settlement offers which the attorney is willing to recommend to the government official who has ultimate settlement authority.

#### **d. Settlements Preceding the ENE or MSC**

In the event a settlement is reached prior to an ENE or MSC, the parties must notify Chambers immediately by sending a joint email to [efile\\_chu@casd.uscourts.gov](mailto:efile_chu@casd.uscourts.gov). Upon receipt of such notice, the Court shall take prompt action as appropriate.

### **IV. Case Management Conferences (“CMC”) and Joint Discovery Plans**

#### **a. Timing of the CMC**

Where a case does not settle at the ENE, the Court will hold a CMC immediately thereafter or, in rare exceptions, up to 60 days following the ENE, consistent with Civil Local Rule 16.1(c)(2)(a).

#### **b. Joint Discovery Plans**

As set forth in the Court’s order setting an ENE and CMC, parties are required to lodge a Joint Discovery Plan. The Joint Discovery Plan must (1) be lodged as one document in PDF format; (2) address all items enumerated in Rule 26(f)(3) of the Federal Rules of Civil Procedure; and (3) provide the following information:

1. The names of all attorneys who participated in the Rule 26(f) Conference and the manner in which the conference was held (*i.e.*, in person, telephonically, or by videoconference platform);
2. Related cases pending in any state or federal court, inclusive of the related cases’ numbers, courts, and assigned judicial officers, if any;
3. Anticipated additional parties, if any;
4. Witness issues, if any;
5. Medical examination issues, if any;
6. Anticipated interventions, if any;
7. Class action issues, if any;
8. A statement confirming whether each party has timely made its initial disclosures pursuant to Rule 26(a) of the Federal Rules of Civil Procedure;

9. A proposed discovery plan as agreed to by the parties, inclusive of:
- a. By name and/or title, all witnesses counsel seeks to depose and a brief explanation to warrant each deposition. If an objection to a witness' deposition is asserted, the objecting party shall state the legal basis for the objection;
  - b. For each party, whether counsel anticipates exceeding the maximum number of depositions Rule 30 of the Federal Rules of Civil Procedure permits and, if so, whether counsel will stipulate to the excess number;
  - c. Categories of documents as well as specific key documents sought during discovery. If an objection to such document production is asserted, the objecting party shall state the legal basis for the objection;
  - d. For each party on whom counsel intends to serve interrogatories, whether counsel anticipates exceeding the maximum number of interrogatories Rule 33 of the Federal Rules of Civil Procedure permits, and, if so, whether counsel will stipulate to the excess number; and
  - e. Issues about disclosure, discovery, or preservation of electronically stored information ("ESI"), informing the form(s) in which the ESI is to be produced.
10. What limited discovery may enable the parties to reach a speedy resolution of the case (*e.g.*, deposition of plaintiff, defendant, or a key witness, exchange of limited, key documents, *etc.*), if any;
11. Issues that implicate expert evidence, including whether counsel anticipates issues under *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), if any;
12. Threshold legal issues that may be resolved by motions for summary judgment or partial summary judgment;
13. The procedure the parties intend to use regarding claims of privilege;
14. The need for a protective order in the case, if any;
15. Pending motions, if any;

16. The parties' position on trial before a magistrate judge;
17. Whether a jury demand has been made and the timeliness of the demand, if any;
18. Consent to magistrate jurisdiction, if any; and
19. A proposed schedule for:
  - a. The filing of the motion to amend pleadings and/or add parties;
  - b. The completion of fact discovery;
  - c. The designation of expert witnesses;
  - d. The designation of supplemental and/or rebuttal expert witnesses;
  - e. The completion of expert discovery;
  - f. The deadline to file pretrial motions, including dispositive motions;
  - g. An MSC; and
  - h. A Pre-Trial Conference before the assigned District Judge.

## **V. Requests to Amend Scheduling Orders**

### **a. Timing of Requests to Amend Scheduling Orders**

Requests to amend scheduling orders should be filed no fewer than five (5) calendar days in advance of the operative date or deadline or the earliest operative date or deadline, if more than one date or deadline is implicated. Any requests to amend scheduling orders filed fewer than five (5) calendar requests in advance of the operative date or deadline must address excusable neglect for the untimely request pursuant to Rule 6(b)(1)(B) of the Federal Rules of Civil Procedure.

### **b. Good Cause Standard**

A party seeking the Court's modification of any operative scheduling order must satisfy the good cause standard under Rule 16(b) of the Federal Rules of Civil Procedure. Fed. R. Civ. P. 16(b)(4). Parties are cautioned that good cause turns on a threshold showing of diligence in attempting to meet existing deadlines. *See id.*; *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). Thus, a request to amend a scheduling order must set forth all steps taken to comply with the operative scheduling order and the fact-specific circumstances demonstrating why the deadlines cannot be met despite the movant's diligence.

### **c. Mechanisms to Request to Amend Scheduling Orders**

Before articulating their request to amend a scheduling order to the Court, movants must first notify all parties to the case of their intended request. Only after the parties have exhaustively met and conferred on the request may the movant proceed with filing their request for relief. The filing should be styled as either a Joint Motion to Amend Scheduling Order or an *Ex Parte* Application to Amend Scheduling Order, as explained under Section V(c)(i)-(ii) below.

#### **i. Joint Motion to Amend Scheduling Order**

Where the parties jointly seek the Court's amendment of an operative scheduling order, they shall proceed with filing a Joint Motion to Amend Scheduling Order consistent with Civil Local Rule 7.2 on Stipulations/ Joint Motions.

#### **ii. *Ex Parte* Application to Amend Scheduling Order**

Where the parties disagree on the movant's request to amend an operative scheduling order, the movant shall proceed with filing an *Ex Parte* Application to Amend Scheduling Order. Prior to its filing, the *Ex Parte* Application must wholly comply with all provisions set forth in Section VIII of these Civil Chambers Rules, inclusive of the notice provisions applicable to Chambers.

### **d. No Hearings on Joint Motions or *Ex Parte* Applications to Amend Scheduling Orders**

Unless set by separate order of this Court, no hearing shall be set on either a Joint Motion to Amend Scheduling Order or an *Ex Parte* Application to Amend Scheduling Order. Accordingly, parties may proceed with their appropriate filing after fulfilling all procedural requirements without requesting a hearing date from Chambers.

## **VI. Discovery Disputes**

*Pro se* litigants and counsel in discovery disputes are encouraged to review and fully comply with Rules 26 – 37 and 45 of the Federal Rules of Civil Procedure, Civil Local Rules 26.1, 30.1, 33.1, and 36.1, and these Civil Chambers Rules prior to raising a discovery dispute to the Court.

## **a. Procedural Requirements to Raise Discovery Disputes**

To raise a discovery dispute, parties must first comply with the Court's three procedural requirements, namely: (1) engaging in an exhaustive meet and confer effort prior to raising the dispute; (2) timely providing notice of the dispute to Chambers no later than thirty (30) calendar days from the date the dispute arose; and (3) jointly notifying Chambers of the dispute by submitting a neutral statement of the dispute via letter emailed to Chambers at [efile\\_chu@casd.uscourts.gov](mailto:efile_chu@casd.uscourts.gov). The Court elaborates on each of these procedural requirements below.

### **i. Exhaustive Meet and Confer Effort**

The Court will not entertain any discovery dispute in the absence of an exhaustive meet and confer effort amongst the attorneys-in-charge. As a foundational matter, the meet and confer effort must take place in person, telephonically, via videoconference, or through a combination thereof. To that end, where all attorneys-in-charge are local to this District Court, the meet and confer process must take place in person and/or by videoconference with cameras turned on for the entirety of counsel's discussions. Under no circumstance will written correspondence regarding a discovery dispute satisfy the meet and confer requirement.

### **ii. Timely Raising Discovery Disputes**

Where they reach an impasse following an exhaustive meet and confer effort, parties must timely notify this Court's Chambers of the discovery dispute. Timely notice before this Court constitutes thirty (30) calendar days from the date the event triggering the dispute arose ("triggering event"). The triggering event will differ depending on the source of the discovery dispute.

#### **1. Oral Discovery**

For oral discovery, the triggering event is (1) the date the official transcript of the affected portion of the deposition is completed, where the transcript itself is at issue; or (2) the date the relevant deposition is taken, where the deposition is at issue. In the latter instance, counsel may call this Court's Chambers at 619. 557. 5391 for an immediate or expedited ruling on the dispute implicating the deposition itself. If available, the Court will either rule on the dispute immediately or provide further instructions regarding how to proceed. If the Court is not available, counsel shall continue with the deposition. Thereafter, counsel shall exhaustively meet and confer regarding all disputed issues and, if necessary, proceed with raising any remaining



discovery dispute consistent with Civil Local Rule 26.1(a) and this Court's Civil Chambers Rule VI.

## **2. Written Discovery**

For written discovery, the triggering event is the date when the written response to the propounded discovery request(s) is due to be served under the Federal Rules of Civil Procedure.

## **3. Extensions of Time to Raise Discovery Disputes**

At no time are parties permitted to stipulate to an extension of time to raise discovery disputes absent leave of Court. In instances where all parties to a discovery dispute believe they may be able to informally resolve the dispute without judicial intervention, the parties may submit a request for extension of time to raise the discovery dispute consistent with the procedures outlined in Section VI(a)(iii) immediately below.

### **iii. Joint Notice of Discovery Dispute**

To raise a timely discovery dispute, parties must email a Joint Notice of Discovery Dispute to Chambers. Specifically, parties must email a joint letter to Chambers at [efile\\_chu@casd.uscourts.gov](mailto:efile_chu@casd.uscourts.gov) to provide notice of the discovery dispute. The joint letter must consist of no more than seven (7) pages and include the following information:

- (1) A statement indicating how the parties conducted their meet and confer effort (*e.g.*, in person, telephonically, and/or via videoconference);
- (2) An attestation confirming the parties engaged in a meet and confer effort that all parties agree was exhaustive in nature;
- (3) A chronology of all procedural events leading up to and including the triggering event to establish the timeliness of the discovery dispute (*e.g.*, the date written discovery was propounded, the deadline to respond to such written discovery, the date the responses to the written discovery were served, *etc.*);

- (4) A joint statement of the basic facts of the discovery dispute. Brief statements of legal argument may be included in the joint statement but only to the extent necessary to articulate the basic facts of the discovery dispute;
- (5) The names and direct telephone numbers of the *pro se* litigant(s) and/or attorneys handling the discovery dispute; and, finally,
- (6) At least three mutually agreeable dates and times within five (5) calendar days for the *pro se* litigants and/or attorneys handling the discovery dispute to participate in a telephonic informal discovery conference with the law clerk assigned to the case.

#### **b. Informal Telephonic Discovery Conference with Chambers**

Once parties submit their Joint Notice of Discovery Dispute to Chambers consistent with the above procedures, the law clerk assigned to the case will respond to set an informal telephonic discovery conference. At the time of the conference, all participants who intend to speak on a party's behalf shall be prepared to provide the law clerk the basic facts of the dispute. No oral argument is permitted for purposes of such proceedings. Even so, the law clerk may ask clarifying questions as needed to provide fuller context for the Court's consideration.

#### **c. Proceedings Following Informal Telephonic Discovery Conference with Chambers**

Once the law clerk informs the Court regarding the informal telephonic discovery conference, the Court will then determine which course of action to take. Specifically, the Court will determine whether the discovery dispute (1) merits formal briefing, which may be simultaneous or responsive briefing, depending on the circumstances, (2) is appropriate for disposition via a discovery conference or hearing, or (3) a combination thereof. **To this end, no discovery motion shall be filed absent leave of Court.** The Court will strike any prematurely filed discovery motion from the record.

#### **d. Procedures to Prepare and Format Discovery Briefing**

Should the Court order briefing on a discovery dispute, the following sets forth the Court's substantive and formatting expectations:

- (1) A signed and dated declaration of compliance with the Court's meet and confer requirement, which summarizes, without argument, the results of the parties' meet and confer discussions, including all material representations made and agreements and/or concessions reached;
- (2) A specific identification of each discovery dispute;
- (3) A statement of each discovery dispute consistent with the following formatting:
  - a. The exact wording of the discovery request in dispute;
  - b. The exact objection of the responding party;
  - c. A statement by the propounding party as to why the discovery is sought; and
  - d. The legal basis for the objection by the responding party.
- (4) Any and all exhibits relevant to the dispute, submitted as attachments to the discovery briefing; and
  - a. Where exhibits implicate written discovery requests and/or objections and responses to same, the parties shall attach as exhibits the (1) cover page for each set of written discovery requests and responses in dispute; (2) the verification page for each set of written discovery requests and responses in dispute; and (3) the specific pages containing the written discovery requests and responses in dispute. In its discretion, the Court may separately request the entirety of the propounded written discovery requests and responses.
- (5) Unless otherwise indicated by court order, parties shall file discovery briefing consisting of no more than seven (7) pages, excluding exhibits.

## **VII. Joint Motions for Entry of Stipulated Protective Order**

### **a. Filing a Joint Motion for Entry of Stipulated Protective Order**

All Joint Motions for Entry of Stipulated Protective Order must:

- (1) Be filed as a joint motion consistent with Civil Local Rule 7.2 on Stipulations/ Joint Motions;

- (2) Include the provision for filing documents under seal, as set forth below in Section VII(b) of these Rules; and
- (3) Be accompanied by a proposed order consistent with Section VII(c) of these Rules.

#### **b. Protective Order Provision for Filing Documents under Seal**

All Joint Motions for Entry of Stipulated Protective Order must include the following two provisions:

No document shall be filed under seal unless counsel secures a court order allowing the filing of a document under seal. An application to file a document under seal shall be served on opposing counsel, and on the person who has or entity that has custody and control of the document, if different from opposing counsel. If opposing counsel, or the person who has or entity who has custody and control of the document, wishes to oppose the application, they must contact the chambers of the judge who will rule on the application, to notify the judge's staff that an opposition to the application will be filed.

The Court may modify the terms and conditions of this Protective Order for good cause, in the interest of justice, or on its own order at any time in these proceedings.

Where this Court grants an application to file a document under seal, a redacted version of the document must be electronically filed through CM/ECF. A courtesy copy of the unredacted document must also be lodged this Court's Chambers. Please refer to Section 2(j) of the Court's Electronic Case Filing Administrative Policies and Procedures Manual for more information.

#### **c. Proposed Orders for Joint Motions for Protective Orders**

All Joint Motions for Entry of Stipulated Protective Order must be accompanied by a proposed order. The proposed order must be in Microsoft Word format and contain all stipulated provisions of the proposed protective order. Parties shall lodge their proposed orders with this Court's Chambers via email at [efile\\_chu@casd.uscourts.gov](mailto:efile_chu@casd.uscourts.gov). For PDF and Microsoft Word versions of this District's Model Protective Order, please visit the Court's website at <https://www.casd.uscourts.gov/forms.aspx?list=all>.

## **VIII. *Ex Parte* Proceedings**

*Ex Parte* Applications may be filed only after advance notice is provided via email to this Court's Chambers at [efile\\_chu@casd.uscourts.gov](mailto:efile_chu@casd.uscourts.gov) and to opposing counsel or a party opponent appearing *pro se*. Further, applicants are expected to strictly comply with Civil Local Rule 83.3(g)(2) governing *Ex Parte* Applications.

Upon service, the responding party shall have until 5:00 p.m. on the following business day to file a response to the *Ex Parte* Application ("default briefing schedule"). If the responding party does not oppose the *Ex Parte* Application, the responding party shall file a Notice of Non-Opposition in accordance with the timeline set herein. If the responding party requires additional time to file a response to the Application, the responding party must email Chambers to request from the Court an amendment of the default briefing schedule. The responding party must include opposing counsel or a *pro se* party opponent on such email.

No hearing date shall be set on an *Ex Parte* Application unless otherwise indicated by separate order of this Court.

## **IX. Junior Attorney Participation in Civil Proceedings**

The Court encourages junior attorneys to participate in civil conferences and hearings, particularly where such attorneys conducted substantive legal research on a matter before the Court or drafted significant portions of a motion before the Court. The Court is amenable to permitting oral argument from more than one attorney on a party's behalf if doing so would allow the junior attorney to participate in the conference or hearing. At all times, however, it is within the discretion of the attorney-in-charge to determine who will speak for a client before the Court.

## **X. Other Resources**

### **a. Criminal Matter Inquiries**

All inquiries regarding criminal matters should be directed to Judge Chu's courtroom deputy, who may be reached at telephone number 619. 557. 5973 or via email at [efile\\_chu@casd.uscourts.gov](mailto:efile_chu@casd.uscourts.gov).

### **b. Contacting Other Court Staff**

To reach the Clerk's Office, please call 619. 557. 5600. To contact other Court staff, please visit <https://www.casd.uscourts.gov/clerksoffice/telephone-list.aspx#tab1>.

### **c. For Technical Assistance with CM/ECF**

For technical questions related to the Case Management / Electronic Case Filing System ("CM/ECF"), please call the CM/ECF Help Desk at 866. 233. 7983. Additionally, the Southern District's CM/ECF website can be accessed by visiting <https://www.casd.uscourts.gov/cmecf.aspx>.